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MYSORE LEGISLATIVE ASSEMBLY

NOTIFICATION

No. 12239/L.A., Bangalore-1, dated 20th January 1965.

Under Rule 64 of the Rules of Procedure and Conduct of Business in the Mysore Legislative Assembly, the Speaker has been pleased to order the publication in the *Mysore Gazette* of **the Mysore Corneal Grafting Bill, 1965**, together with the Statement of Objects and Reasons relating thereto, and the Bill and the Statement of Objects and Reasons are accordingly published for general information.

THE MYSORE CORNEAL GRAFTING BILL, 1965.

A Bill to provide for the use of the eyes of deceased persons for surgical purposes.

WHEREAS it is expedient to provide for the use of the eyes of deceased persons for surgical purposes;

BE it enacted by the Mysore State Legislature in the Sixteenth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Mysore Corneal Grafting Act, 1965.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. Authority for removal of eyes of deceased persons.—(1) If any person, either in writing at any time or orally in the presence of not less than two witnesses at any time has expressed a request that his eyes be used for surgical purposes after his death, the party lawfully in possession of his body after his death, may, unless it is proved that the request was subsequently withdrawn, either in writing or in the presence of two witnesses, authorise the removal of the eyes from the body for the said purposes.

(2) Without prejudice to the provisions of sub-section (1), the party lawfully in possession of the body of a deceased person may authorise the removal of the eyes unless that party has reason to believe—

(*a*) that the deceased had expressed an objection to his eyes being so dealt with after his death, and had not withdrawn it; or

(*b*) that the surviving relative of the deceased objects to the deceased's eyes being so dealt with.

Explanation.—For purposes of this clause "relative" means any of the following relatives of the deceased, namely, husband, wife, parent, son, daughter, brother or sister and includes any other person who is related to the deceased (i) by lineal consanguinity within three degrees or by collateral consanguinity within six degrees, or (ii) by marriage with any of the relatives aforesaid. The expressions "lineal consanguinity" and 'collateral consanguinity" shall have the meaning assigned to them in the Indian Succession Act, 1925 (Central Act 39 of 1925) and degrees of relationship shall be computed in the manner laid down in that Act.

(3) An authority given under this section in respect of any deceased person shall be sufficient warrant for the removal of the eye from the body and its use for the purposes aforesaid.

3. Removal of eyes.—(1) No person other than a legally qualified medical practitioner (whether in Government service or not) possessing a post-graduate qualification in Ophthalmology or has been trained in enucleation procedure in an Ophthalmic Department of an institution approved or notified by the State Government, shall remove the eye from the body of a deceased person.

(2) The medical practitioner authorised to remove the eye from the body of a deceased person under sub-section (1) shall before such removal satisfy himself by a personal examination of the body that life is extinct.

(3) After the removal of the eye from the body, the medical practitioner concerned shall keep it in a thermos flask filled with ice and hand over the same to the nearest eye bank of an institution approved by the State Government.

4. Removal of eyes not to be authorised in certain cases.—No authority for the removal of eyes shall be given under section 2,—

(a) if the person competent to give such authority has reason to believe that an inquest may be required to be held on the body ; or

(b) in respect of the body of a deceased person by a person entrusted by another person with the body for the purpose only of its internment or cremation.

5. Authority of removal of eyes in the case of unclaimed bodies in certain institutions.—(1) In the case of a body lying in a hospital, prison, nursing home or other institution and not claimed by any of the near relatives of the deceased, an authority for removal of the eyes may be given in the form prescribed by rules made under this Act, by the person having the control or management of the hospital, prison, nursing home or institution.

(2) No authority under sub-section (1) shall be given—

(i) within half-an-hour from the time of death in case no facility for the cold storage of the dead body is available in the hospital, prison, nursing home or other institution ; or

(ii) within four hours from the time of death in case facility for the cold storage of the dead body is available in the hospital, prison, nursing home or other institution.

(3) No authority shall be given under sub-section (1) if the person empowered to give such authority has reason to believe that the deceased has near relatives although no near relative has claimed the body of the deceased within the time specified in this behalf.

6. Savings.—(1) Nothing in this Act shall be construed as rendering unlawful any dealing with the body or with any part of the body of a deceased person which

would have been lawful if this Act had not been passed.

(2) Any authority for the removal of eyes given in accordance with the provisions of this Act shall not be deemed to be contravention of the provisions of section 297 of the Indian Penal Code (45 of 1860).

7. Rules.—(1) The State Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Statement of Objects and Reasons.

The removal of human cornea from dead bodies for the purpose of grafting on diseased cornea in live patients is in practice on a fairly large scale in western countries, and corneal banks are maintained in eye hospitals, providing such operational facilities. It is proposed to provide for similar facilities in the State. Hence this Bill.

Financial Memorandum.

For the removal of human cornea from the dead bodies for the purpose of grafting on diseased cornea in live patients it is necessary to establish an Eye Bank, at present in the Minto Ophthalmic Hospital, Bangalore. Certain incidental expenditure to provide refrigeration facilities in the shape of initial equipment and some additional staff as detailed below are quite necessary since the existing staff of Minto Hospital cannot cope with this work as also in addition to their own.

Non-Recurring Expenditure.

Cost of the Refrigerator	...	Rs. 4,000
Cost of Furniture	...	Rs. 2,000
Instruments and appliances exclusively for use in this section	...	Rs. 20,000
Total		Rs. 26,000

Annual Recurring Expenditure.

		Rs.
One Assistant Surgeon Grade I Rs. 300-25-550-30-700	...	6,266 2/3
One Nurse on Rs. 140-5-150-6-180-10-220.		4,512
Ration and Uniform allowance at Rs. 24 per mensem	... ...	576
One Class IV Servant on Rs. 50-1-60	...	636 2/3
House Rent Allowance	...	288
Total	...	12,279 1/3
Animal experiments	...	5,000
Grand Total		17,279 1/3 p.a.

Memorandum Regarding Delegated Legislation

Sub—clause (1) of clause 5 of the Bill empowers the State Government to make rules prescribing the form in which an authority for the removal of the eyes may be given by the person having the control or management of a hospital, prison, nursing home or institution.

Clause 7 of the Bill empowers the State Government to make rules to carry out the purposes of the Act.

The rules will be laid before both Houses of the State Legislature and are subject to such modification as the Legislature may make.

The delegation of legislative power is necessary for the implementation of the Act and is of a normal character.

K. NAGAPPA ALVA.

G. S. VENKATARAMANA IYER,
Secretary.

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